

OFFICE OF THE TOWN CLERK

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ARTICLE 11 BYLAW AMENDMENT/DOMESTIC PARTNERSHIPS

VOTED: YES – 162, NO – 68

That Title I, Article 23 of the Town Bylaws (“General Government”), “Domestic Partnerships” is hereby amended as set forth below:

Section 1. Purpose and Intent

The Town of Arlington (“Town”) recognizes the diverse composition of its citizenry and realizes that a perpetuation of the traditional meaning of “family” can exclude a segment of the Town’s population by: (1) depriving them of recognition and validation; and (2) denying them certain rights and responsibilities that should be afforded to persons who share their ~~homes~~, hearts and lives. Recognizing its commitment to fair treatment of its citizens, the Town adopts this Bylaw that acknowledges domestic partnerships. People in committed relationships who meet the criteria established by the Town as constituting a domestic partnership are provided an opportunity by this Bylaw to register at the office of the Town Clerk, obtain a certificate attesting to their status, and share in certain rights and benefits conferred under this Bylaw.

Section 2. Definitions

- A. “Domestic partnership” shall mean two or more persons who meet all of the following requirements and who register their domestic partnership in accordance with Title I, Article 23, Section 3.
- (1) They have made a commitment of mutual support and caring for their domestic partners;
 - ~~(2) They reside together and intend to do so indefinitely;~~
 - ~~(3) They share basic living expenses;~~
 - (2) They are at least eighteen (18) years of age;
 - (3) They are competent to enter into a contract; and
 - (4) They are not ~~married to anyone or related to each other by~~ blood closer than would bar marriage in the Commonwealth of Massachusetts.
- B. “Dependents” shall mean a child or step-child of any domestic partner.

Section 3. Registration, Amendment and Termination

A. Registration

(1) Statement of Domestic Partnership

- (a) Domestic partners who meet the requirements set forth in Title I, Article 23, Section 2(A) of this Bylaw may make an official record of their domestic partnership by completing, signing and submitting to the Town Clerk a statement of domestic partnership. Persons submitting a statement of domestic partnership must declare under penalty of perjury that they meet the requirements set forth in Title I, Article 23, Section 2(A) of this Bylaw.
- (b) The domestic partnership statement shall be on a form prescribed by the Town Clerk, which form shall include, but shall not be limited to, the names of the domestic partners and the date on which they became each other's domestic partners-
- ~~(c) and The~~ the names and dates of birth of any dependents of the domestic partnership.
- (c) If any member of the prospective domestic partnership is married or in another domestic partnership, a notarized Affidavit of Consent is needed from all other current domestic partners or spouses.

B. Amendments

- (1) To change an address, Domestic partners may file a Domestic Partnership Amendment Form, with the Town Clerk. ~~The to add or delete dependents or change an address. Any~~ amendment shall be signed, under the pains and penalties of perjury, by ~~both~~ all of the domestic partners whose addresses are changing.
- (2) To add or remove dependents, domestic partners may file a Domestic Partnership Amendment Form with the Town Clerk. The amendment shall be signed, under the pains and penalties of perjury, by all of the domestic partners.
- (3) To add domestic partners, the prospective domestic partners may file a Domestic Partnership Amendment Form with the Town Clerk. If any member of the prospective domestic partnership is married or in another domestic partnership, a notarized Affidavit of Consent is needed from all other current domestic partners or spouses in order to add additional partners to an already established domestic partnership. The amendment shall be signed, under the pains and penalties of perjury, by all of the current and new domestic partners.

C. Withdrawal and Termination

- (1) Any member of a domestic partnership may withdraw from the domestic partnership by filing a withdrawal statement with the Town Clerk. Withdrawal from a domestic partnership shall become effective immediately when the withdrawal statement is filed with the Town Clerk. Any person filing a withdrawal statement must declare under the pains and penalties of perjury that they have withdrawn and that all other domestic partners have been notified of such withdrawal either personally or by mailing a copy of the withdrawal statement to the other domestic partner's last and usual address by

certified mail.

- (2) ~~(1) If only one or zero domestic partner(s) remain(s) after a withdrawal goes into effect, then the domestic partnership is considered terminated immediately. If there are two or more persons remaining in a domestic partnership after a withdrawal goes into effect, then the withdrawal does not terminate the domestic partnership as to the remaining persons in the domestic partnership. Domestic partners shall notify the Town Clerk of the termination of their domestic partnership. Any member of a domestic partnership may terminate the domestic partnership by filing a termination statement with the Town Clerk. Termination of a domestic partnership shall become effective ninety days (90) days after the termination statement is filed with the Town Clerk. Any person filing a termination statement must declare under the pains and penalties of perjury that the domestic partnership is thereby terminated and that the other domestic partner has been notified of such termination either personally or by mailing a copy of the termination statement to the other domestic partner's last and usual address by certified mail.~~
- (3) ~~(2) The death of a domestic partner functions as an automatic withdrawal from the domestic partnership as to that partner, but not as to the remaining persons in the domestic partnership. Such automatic withdrawal will be effective immediately. No person may file a new statement of domestic partnership until any previous domestic partnership of which he or she was a member has been effectively terminated.~~

Section 4. Town Clerk

- (1) The Town Clerk shall maintain records of the registration, amendment, withdrawal and termination of domestic partnerships as permanent records. The Town Clerk shall provide appropriate forms for a Statement of Domestic Partnership, for the registration of the Statement and for the amendment, withdrawal and termination of a domestic partnership.
- (2) The Town Clerk shall charge a fee for filing a domestic partnership equal to the fee charged to file a marriage license. Payment of the filing fee shall entitle the person filing the statement on behalf of the domestic partnership to receive one copy of the statement certified by the Town Clerk. The fee for additional certified copies of the statement, or for copies of amendment, withdrawal, or termination statements, shall be the same fee charged for additional certified copies of a marriage license.

Section 5. Rights of Domestic Partners

Persons who have registered their domestic partnership with the Town Clerk pursuant to Title I, Article 23, Section 3 are entitled to the following rights:

A. Visitation at health-care facilities.

- (1) A domestic partner shall have the same visitation rights as a spouse or parent of a patient at all health-care facilities operated and maintained by the Town, except to the extent that doing so would conflict with federal or state law. A dependent shall have the same visitation rights as a patient's child.
- (2) The term "health care facilities" includes hospitals, convalescent facilities, mental health care facilities, nursing homes, and other short and long term care facilities operated and maintained by the Town.

B. Visitation at correctional facilities.

- (1) A domestic partner shall have the same visitation rights at all correctional facilities operated and maintained by the Town as a spouse or parent of a person in custody, except to the extent that doing so would conflict with federal or state law. A dependent shall have the same visitation rights afforded to the child of a person in custody.
- (2) The term "correctional facilities" includes, but is not limited to, holding cells, jails and juvenile correction centers operated and maintained by the Town.

C. Access to children's school records and personnel.

- (1) A domestic partner who is also the custodial parent or legal guardian of a child may file a school authorization form at, or send a letter to, the child's school to indicate that the parent's domestic partner shall have access to the child's records, access to school personnel in matters concerning the child and access to the child, including the right to remove such child from the school for sickness or family emergency. The school shall afford such person access as directed by the child's existing parent or guardian, except to the extent that doing so would conflict with federal or state law.
- (2) When a domestic partnership is withdrawn or terminated pursuant to Title I, Article 23, Section 3(C), it is the responsibility of the parent or guardian to notify the school, in writing, of the termination of rights of the former domestic partner.
- (3) As used herein, the term "school" shall ~~only~~ include facilities owned and operated by the Town and shall include, but shall not be limited to, high schools, vocational schools, junior high and middle schools, elementary schools, preschools and preschool programs, after-school programs and day-care programs, ~~provided that such are owned and operated by the Town.~~

SECTION 6. Employment Benefits

- A. Town employees shall be granted bereavement leave, with pay, for the death of a domestic partner or family member of a domestic partner to the same extent as for a spouse or family member of a spouse. Use of the term "in-law" in employee handbooks shall include the relatives of a domestic partner.
- B. Town employees shall be granted sick leave to care for a domestic partner to the same extent permitted to care for a spouse, and to care for a dependent of a domestic partnership to the same extent permitted to care for a child.
- C. Town employees in domestic partnerships shall be entitled to take parental leave, as provided for under the Town's by-laws, to the same extent as married employees.

SECTION 67. Interpretation and Limitation of Liability

- A. It is the intention of this Bylaw that its provisions shall be enforceable to the maximum extent permitted by law.
- B. Nothing contained in this chapter shall be construed to impose liability upon a domestic partner for the health or medical expenses of their domestic partner, with the sole exception of the medical insurance contributions assumed by a Town or School Department employee who is a member of a domestic partnership.
- C. Nothing in this chapter shall be construed to create additional legal liabilities greater than those already existing under law or to create new private causes of action.

SECTION 78. Reciprocity

All rights, privileges and benefits shall be extended to domestic partnerships registered pursuant to similar laws enacted in other jurisdictions.

SECTION 89. Non-Discrimination

No person who seeks the benefit of this Bylaw, registers pursuant to its provisions, or assists another person in obtaining the benefits of this Bylaw shall be discriminated against in any way for doing so.

SECTION 910. Severability

The provisions of this Bylaw are severable. If any of its provisions are held invalid by the Attorney General, a court of competent jurisdiction or other reviewing authority, all other provisions shall continue in full force and effect.

**A true copy of the vote under
Article 11 of the Warrant for the
Annual Town Meeting of the
Town of Arlington at the session
held May 2, 2022.**